

REMARKS

The Office examined claims 1-15 and rejected same. With this paper, claims 1-14 and 16 are amended, new claim 17 is added and claim 15 is canceled. The application now includes claims 1-14 and 16-17. The added new claim 17 is substantially identical to the previously presented claim 8. Therefore, no new matter has been introduced with the amendment.

In a Preliminary Amendment submitted with the filing of the instant application, original claims 1-15 were amended and new claim 16 was added. The Applicant respectfully requests the Office to examine claims 1-16 based on the Preliminary Amendment.

Claim Rejections under 35 USC §103

Claims 1-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Heck et al (U.S. Publication 2005/0064883 A1, Heck hereinafter) in view of Lurie et al (U.S. Publication 2006/0215826 A1, Lurie hereinafter).

The present invention as recited in claim 1 has the following features (as currently amended and emphasis added):

1. A method, comprising:
 - making a request in a device for establishing a connection with a receiver,
 - as a response to a failed attempt for establishing the connection, the device automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip,
 - recording a voice message as a sound clip of a multimedia message in a volatile random access memory of the device, and
 - transmitting the created multimedia message to the receiver.

As underlined, the device in claim 1 is configured to perform at least the following actions: 1) making a request for establishing a connection with a receiver; 2) as a response to a failed attempt for establishing the connection, automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip; and 3) recording a voice message as a sound clip of a multimedia message in a volatile random access memory. These actions are performed by the same device.

Heck discloses making a request in a device for establishing a connection with a receiver, starting a multimedia messaging service (MMS), and transmitting the created multimedia

message to the receiver. Activating a recording function of a sound clip and recording a voice message as a sound clip of a multimedia message in a volatile random access memory of the device are implied as these functions are generally available to MMS enabled handsets.

It is acknowledged in the Office Action that Heck fails to specifically disclose "**as a response to a failed attempt for establishing the connection, the device automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip.**" However, the Office asserts that this deficiency would be overcome by modifying the teaching of Heck incorporating the teaching of Lurie.

Lurie discloses a service provider system in which a user is connected with a selected service provider for a live conversation via a real-time communication link. The system determines whether a successful connection was established between the user and the selected service provider. If the system fails to establish a successful connection, the system allows the user to record a message for the selected service provider (Fig. 8, steps 714 and 716, and paragraph [0070]). Lurie does not concern anything about the multimedia messaging service (MMS).

Lurie is different from the claim limitation "**as a response to a failed attempt for establishing the connection, the device automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip.**" In Lurie, if the provider system fails to establish a connection between the user and the selected service provider, the system allows the user to record a voice message in the service provider system. In other words, the service provider system is configured to start a recording function and record a voice message for the user. The message is therefore stored in the service provider system. There are no actions of starting a multimedia messaging service in the user's device and recording a sound clip by the user's device. Because a direct connection between the user's device and the selected service provider is not established, the provider system performs the recording of the voice message for the selected service provider, and the selected service provider reviews the message at the service provider system and requests a connection with the user (Fig. 8, step 718 and beyond).

Therefore, the combined teachings of Heck and Lurie do not include all the limitations of claim 1. Particularly, the limitation of claim 1, "as a response to a failed attempt for establishing the connection, the device automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip" is neither disclosed by Heck nor by Lurie.

Based on the foregoing, claim 1 is patentable. Applicant respectfully requests the rejection of claim 1 and all dependent claims thereof be reconsidered and withdrawn.

Other independent claims are amended to be consistence with claim 1 and include the same patentable features of claim 1. Therefore, these claims, and all dependent claims thereof, are patentable as well. Applicant respectfully requests the rejection under 35 USC §103(a) be reconsidered and withdrawn.

Conclusion

It is believed that the application is now in condition for allowance, and early passage to issue is earnestly solicited. The Examiner is invited to contact applicant's agent at the number below if there are any questions.

Dated: Jan. 10, 2008

Respectfully submitted,



Shiming Wu
Agent for Applicant
Reg. No. 56,885

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building Five
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676
USPTO Customer No. 004955